



**Date:** January 4, 2013

**To:** Thomas J. Bonfield, City Manager  
**Through:** W. Bowman Ferguson, Deputy City Manager  
**From:** Marvin G. Williams, Director of Public Works  
**Subject:** License Agreement with GS Brightleaf Subsidiary, LLC

### **Executive Summary**

GS Brightleaf Subsidiary, LLC proposes to install and maintain an irrigation system and landscaping within the median of May Street, near the intersection of May Street and Copper Leaf Boulevard (see attached map). A license agreement is required when private utilities, such as an irrigation system, are installed within the City's maintained rights-of-way (Section 62-56 of the City of Durham Code of Ordinances).

### **Recommendation**

The Department of Public Works recommends that the City Council authorize the City Manager to enter into a license agreement with GS Brightleaf Subsidiary, LLC.

### **Background**

GS Brightleaf Subsidiary, LLC proposes to install and maintain an irrigation system and landscaping within the median of May Street (see attached map). The system is part of Brightleaf Tract 3, an apartment development. May Street is currently under construction and therefore still privately maintained, but it is anticipated to be accepted by the City for maintenance in the future. The irrigation system and landscaping will remain privately maintained. Per Section 62-56: "Sidewalks, curbs, gutters, street paving for private interests – Excavations, permits, licenses, and franchises" of the City of Durham Code of Ordinances, a license agreement is required when privately owned and/or maintained features, such as a private irrigation system, are proposed to be installed in the public rights-of-way.

### **Issues/Analysis**

Any feature in the rights-of-way has the potential to pose a hazard to the public, and to increase liability to the licensee. To the maximum extent allowed by law, Licensee shall indemnify and save harmless indemnities from and against all charges that arise in any manner from, in connection with, or out of this license as a result of acts or omissions of Licensee or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

### **Alternatives**

City Council can choose not to approve the request.

**Financial Impact**

The Licensee will assume the cost of installation, maintenance, and repair, including the cost of repairs to the street and pavement associated with the installation, maintenance, and repair of the System.

**SDBE Summary**

The SDBE Summary is not applicable for this update.